

JAMES BONINI
CLERK

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

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Clerk's Office

John D. West, on Behalf of Himself and All Other Persons Similarly Situated,)	
Plaintiff,)	Case No. 1:02-cv-0001
v.)	Judge: Hon. Sandra S. Beckwith
AK Steel Corporation Retirement Accumulation Pension Plan, and)	Magistrate Judge: Timothy S. Black
AK Steel Corporation Benefit Plans Administrative Committee)	
Defendants.)	

DEFENDANTS' PROTECTIVE NOTICE OF APPEAL

On February 24, 2006, the District Court entered final judgment in the above captioned case. On March 3, 2006, Defendants AK Steel Corporation Retirement Accumulation Pension Plan and AK Steel Corporation Benefit Plans Administrative Committee (collectively "Defendants") timely filed a Motion to Alter or Amend the Judgment under Federal Rule of Civil Procedure 59(e). Federal Rule of Appellate Procedure 4(a)(4)(A) provides that Defendants have until 30 days following the District Court's disposition of their Rule 59(e) Motion to file a Notice of Appeal. However, out of an abundance of caution, Defendants now file this protective Notice of Appeal. Defendants believe that the effectiveness of this Notice of Appeal is tolled by their pending Rule 59(e) motion pursuant to Federal Rule of Appellate Procedure 4(a)(4)(B)(i).

Notice is therefore hereby given pursuant to Federal Rule of Appellate Procedure 3 that defendants appeal to the United States Court of Appeals for the Sixth Circuit from the District

Court's February 24, 2006 entry of final judgment in the above captioned case. Defendants' appeal of this final judgment encompasses, in addition to the final judgment, (1) the District Court's December 3, 2003 Order denying defendants' Motion for Entry of Judgment that plaintiffs' claim is time-barred; (2) the District Court's April 8, 2004 Order on the parties' cross-motions for Summary Judgment on the issue of liability; (3) the District Court's November 22, 2004 Order denying Defendants' Motion to Dismiss under *Crosby v. Bowater*, 382 F.3d 587 (6th Cir. 2004); (4) the District Court's December 19, 2005 Order on the parties' cross-motions for Partial Summary Judgment on the issues of damages and pre-judgment interest; and (5) the District Court's order on defendants' pending Rule 59(e) motion should that motion be denied.

Dated: March 24, 2006

Respectfully submitted,

George E. Yund by EJD

George E. Yund (0017714)
FROST BROWN TODD LLC
2200 PNC Center
201 East Fifth Street,
Cincinnati, OH 45202-4182
(513) 651-6824
gyund@fbtlaw.com

Trial Attorney for Defendants

Robert D. Wick
COVINGTON & BURLING
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401
(202) 662-6000
rwick@cov.com

Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Appeal was served upon Thomas R. Theado, Esq., Gary Naegele & Theado, LLC, 446 Broadway, Lorain, Ohio 44052-1797, and Allen C. Engerman, Esq., Law Offices of Allen C. Engerman, P.C., 666 Dundee Road, No. 1200, Northbrook, IL 60062, by U.S. Mail on this 24th day of March, 2006.

George E. Yund by EJD